CMPMO No. 263 of 2007

26.11.2007 Present: Mr. C.N.Singh, counsel for the petitioner.

The plaintiff, who is an employee of the United India Insurance Company, was suspended on account of the alleged acts of embezzlement in the year 2001. An inquiry was initiated against him in the year 2003 and the inquiry officer vide his report dated 10th August, 2005 came to the conclusion that some of the charges levelled against the petitioner stood proved. The disciplinary authority, on the basis of the inquiry report, sent a memorandum to the petitioner in which it was indicated that the inquiry report had been accepted and that before further action, in terms of Rule 23 of the General Insurance Rules was taken, the petitioner may represent against any conclusion of the inquiry officer and also against the imposition of major penalty against him.

At that stage itself the petitioner filed a suit in the year 2005 and obtained stay order preventing the Insurance company from taking any further action. The Insurance Company contested the said suit and the application for stay. The trial court vide its order dated 24.10.2007 came to the conclusion that the petitioner has failed to make out a prima case and rejected his application for interim injunction. Aggrieved against this order the petitioner filed an appeal before the learned District Judge (I), Kangra at Dharamsala. This appeal came up before the Appellate Court on 1.11.2007 on which date notices were issued for today, but no

interim relief was granted to the petitioner. Hence the present petition.

Mr. C.N.Singh, learned counsel for the petitioner, has taken me through the pleadings as well as the material on record and has urged that the petitioner has been condemned unheard and documents were not supplied to him and also urges that the memorandum dated 26th October, 2005 shows that the Disciplinary Authority has already made up its mind and accepted the report and hence, there is no question of making a representation. The question whether ad-interim stay has to be granted or not was to be decided by the lower Appellate Court. The suit has been filed to preempt for the disciplinary action and proceedings. Whether stay can be granted in such proceedings or not, is a question which is for the lower Appellate Court to decide. The order calls for no interference by this court and hence, the petition is dismissed in limine.

November 26, 2007(K) (Deepak Gupta), ACJ